THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.21246 OF 2006

Dated 26th February, 2007

Between:
M/s K.E.C. International Limited … Petitioner

And

Deputy Commissioner (CT)
And another .. Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.21246 OF 2006

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

The grievance of the petitioner is that the Deputy Commissioner passed the impugned order, in exercise of his revisional powers, on 26-06-2006 when an appeal filed by the petitioner against the order of the Appellate Deputy Commissioner, which was revised by the Deputy Commissioner, was pending before the Sales Tax Appellate Tribunal. He submits that in terms of Section 20(2A) of the Andhra Pradesh General Sales Tax Act, 1957, (for short "the Act") the revisional authority cannot exercise revisional power in respect of any issue or question which is subject matter of an appeal before the Appellate Tribunal or which has been decided in an appeal by the Appellate Tribunal.

The learned counsel for the petitioner submits that the petitioner had filed the appeal before the Appellate Tribunal in the year 2005 itself and the issues and questions before the Tribunal and before the revisional authority were same and therefore, the revisional authority could not have proceeded with the revision and passed the impugned order.

Learned Special Standing Counsel for Commercial Taxes

submits that a show cause notice was issued to the petitioner, time was granted to him to file reply and even the time was extended, but no reply was filed even within the extended period of time and ultimately, the revisional authority passed the order on 26-06-2006. He further submits that it was never brought before the notice of the revisional authority that an appeal was pending. Since such a fact was not brought to the notice of the revisional authority, the revisional authority proceeded with the revision. It is also not known that the issues and questions before the Appellate Tribunal were same, which were decided by the revisional authority in the revision.

After hearing learned counsel for the parties and noting down their contentions, we are of the view that the interest of justice would be met if the impugned order is quashed and the matter is remanded to the revisional authority.

Accordingly, the writ petition is allowed, the order impugned is quashed and the matter is remanded to the revisional authority. The petitioner is granted 15 days time from today to file objections to the show cause notice issued by the revisional authority in exercise of power under Section 20(2A) of the Act. The petitioner can raise all the pleas, which are available to him including the plea that the revision was not competent as appeal before the Tribunal was pending. On receipt of the objections from the petitioner, the revisional authority may decide all issues including the issue relating to his exercise of power under Section 20(2A) of the Act. However, if no objections are filed by the petitioner within the time stipulated by us, the competent authority i.e. the revisional authority may pass appropriate orders in its absence. No order as to costs.

(Bilal Nazki,J)

Dated 26th February, 2007

(Nooty Ramamohana Rao,J)

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